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EXAMINER

LAYNO, BENJAMIN

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROGER M. SNOW

Appeal 2009-009758
Application 10/658,864
Technology Center 3700

Before: WILLIAM F. PATE III, STEFAN STAICOVICI, and
FRED A. SILVERBERG, *Administrative Patent Judges*.

PATE III, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF CASE

Appellant appeals under 35 U.S.C. § 134 from a rejection of claims 1-20. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

The claims are directed to a casino card game with parlay bet feature. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method of playing a live casino card game with a bonus game component comprising:
 - a player making a wager to play in the live casino card game and placing an optional side bet bonus wager on the bonus game component;
 - a first number of cards are dealt to a bonus hand position;
 - a second number of cards are dealt to the player, when the player hand has at least a predetermined winning arrangement of cards comprising a preselected winning poker rank, the player attains at least a first bonus amount level on the player's placed optional side bet bonus wager;
 - when the player has a winning arrangement of cards and the first number of cards has at least a winning arrangement of cards, enhancing the first bonus amount level attained by the player.

REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Jones	US 4,861,041	Aug. 29, 1989
Brunelle	US 6,446,972 B1	Sep. 10, 2002

REJECTION

Claims 1-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Brunelle and Jones. Ans. 3.

OPINION

We have carefully reviewed the rejection on appeal in light of the arguments of the Appellant and the Examiner. As a result of this review we have reached the conclusion that the applied prior art does not establish the obviousness of the claims on appeal. Therefore the rejection on appeal is reversed. Our reasons follow.

The Examiner states:

After comparison with the dealer hand is resolved, if the player hand has at least a predetermined winning arrangement of cards, the player attains at least a first bonus amount level on the player's placed optional side bet bonus wager, col. 4, lines 42-47. When the player has a winning arrangement of cards and the bonus hand 26 has at least a winning arrangement of cards, the bonus award paid to the player is enhanced by a predetermined rank being present in the bonus hand, col. 4, lines 48-56.

Ans. 3-4. This is the Examiner's description of the bonus portion of the Brunelle casino game. On the other hand, the Appellant argues that neither Brunelle alone, nor Brunelle in view of Jones, shows where two distinct bonus events occur on the same wager. Br. 11, ll. 7-8². We agree with Appellant. We do not find in Brunelle a first bonus amount level that can be enhanced based on the bonus cards. Brunelle makes clear that when a player's hand is less than or equal to a pre-determined count value M, and the player has wagered a bonus ante stake, the player becomes eligible for the bonus hand. Col. 4, l. 45. As far as we can determine, there is no monetary award or credit given at this determination of eligibility.

Afterwards, Brunelle's bonus hand is revealed and the amount of award for

² We refer to the Appellant's Fourth Replacement Appeal Brief filed November 5, 2007.

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the eligible player is figured based on a pay table. Thus Brunelle describes a game in which there is only one bonus award delivered to the player that is eligible for a bonus award and has contributed a bonus award ante. This contrasts with the claimed subject matter in which a player receives a bonus award which may or may not be enhanced depending on the value of the bonus cards. In Appellant's claimed game, a person who has made a bonus ante may receive two distinct bonus awards. In Brunelle a person only achieves eligibility and then receives a single bonus award.

We have carefully considered the cited prior art patent to Jones but we find nothing therein that can ameliorate the difficulties we have determined with respect to Brunelle. Therefore the rejection of all claims on appeal under 35 U.S.C. § 103(a) is reversed.

DECISION

The rejection of claims 1-20 under 35 U.S.C. § 103(a) is reversed.

REVERSED

nlk

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